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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,834	03/30/2001	Jean Lapointe	13738-7US MJS/SC/sm	4476
20988	7590	01/24/2006	EXAMINER	
OGILVY RENAULT LLP 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA			SAFAVI, MICHAEL	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/820,834

Applicant(s)

LAPOINTE ET AL.

Examiner

M. Safavi

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 and 22 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, and 10-18 is/are rejected.
- 7) ☒ Claim(s) 6, 8 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear as to what is being defined by the recitation, "...in a preassembled state" as is presented within lines 4 and 5 of claim 10. Is the recited preassembled state different than what is being claimed in claim 10? Or does claim 10 fully define the socket as "fully inserted into said outer sleeve"? The metes and bounds of the language of claims 10-18 can, therefore, not be ascertained.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

**Claims 1, 2, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hall et al.** Hall et al. shows, Figs. 2, 3 and 5, footing comprised of outer sleeve 12, socket member 17 press fitted therein, with elongated post segment 20, and connector 18 inserted into

the elongated post segment and the socket member for joining the post segment to the footing.

Outer sleeve is flattened as can be seen at tip thereof, (Fig. 5), for easy insertion into the ground.

Stabilizer 27 is removably fitted over the outer sleeve.

**Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Aberle.**

Aberle shows, Figs. 1 and 2, footing comprised of outer sleeve 30, socket member 12 press fitted therein, with elongated post segment 16 and connector 58 axially inserted into the socket member with above ground post segment thereover. Footing is inserted into the ground with socket member 22a attached to outer sleeve 22.

**Claims 10, 11, 12, and 14 are rejected under 35 U.S.C. 102(a) as being anticipated by Krinner.** Krinner shows, Fig. 7, footing comprised of outer sleeve 6, socket member 16/18 press fitted therein while being substantially fully inserted into the outer sleeve. An upper end of the socket member 16/18 being leveled with a trailing end of the outer sleeve 6 thus trailing end of sleeve is "directly accessible for receiving blows". Outer sleeve is flattened as can be seen at tip 12 for easy insertion into the ground. Footing is inserted into the ground with socket member 22a attached to outer sleeve 22.

**Claims 10, 11, 14, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Connors.** Connors shows, Figs. 1 and 2, footing comprised of outer sleeve 1/2, socket member 7 press fitted therein while being substantially fully inserted into the outer sleeve. Outer sleeve is flattened as can be seen at tip thereof for easy insertion into the ground. Stabilizer 20 is removably fitted over the outer sleeve. Footing is inserted into the ground with socket

member 7 attached to outer sleeve 1/2. Outer sleeve 1/2 can be seen as having a square cross section with the socket 7 possessing an elliptical cross section.

***Claim Rejections - 35 USC §103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall et al.** To have formed the Hall et al. components 12 or 17 of a galvanized or non-galvanized material, thus utilizing any and all advantages of using such well known material and metals including interchangeability of types of materials or parts, would have constituted an obvious expedient to one of ordinary skill in the art.

**Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aberle.** To have formed the Aberle components 30 or 12 of a galvanized or non-galvanized material, thus utilizing any and all advantages of using such well known material and metals including interchangeability of types of materials or parts, would have constituted an obvious expedient to one of ordinary skill in the art.

**Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Connors.** To have formed the Connors components  $\frac{1}{2}$  or 7 of a galvanized or non-galvanized material, thus utilizing any and all advantages of using such well known material and metals including interchangeability of types of materials or parts, would have constituted an obvious expedient to one of ordinary skill in the art.

Claims 6, 8, and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 17 and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 21 and 22 are allowed.

#### ***Response to Arguments***

Applicant's arguments filed November 26, 2003 have been fully considered but they are not persuasive. Connors' element 7 would certainly read upon a socket member. Claim 10 does not recite a post member inserted within the socket member. And, socket 7 of Connors lies within a "foot" portion of the sleeve as can be seen in Connors' Fig. 1 though, the language of claim 10 does not appear to recite such a limitation. And, the trailing end of Krinner is "directly accessible for receiving blows" since the upper end of Krinner is exposed as around the outer circumference thereof,

(see upper edge of sleeve 6 in Fig. 7), though, an outer circumference of the upper end of Krinner would serve to read upon "directly accessible for receiving blows" since any type of tool can be utilized to drive the sleeve including a chuck which may surround the upper end thereof to allow for hammering in which case the "trailing end" is directly accessible to blows.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MICHAEL SAFARI  
PRIMARY EXAMINER  
ART UNIT 3673

M. Safavi  
January 20, 2006